

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
June 16, 2008

D049579 People v. Estrada

Affirmed. Irion, J.; We Concur: Nares, Acting P.J., O'Rourke, J.

D050926 Farina v. Wedbush et al.

The judgment dated April 5, 2007 is modified as follows. The principal sum of \$25,037.14 on page 1, line 25, and on page 2, line 10, is hereby modified to refer to the principal sum of \$24,057.14. The award of prejudgment interest in the amount of \$6,321.22 is vacated, and this action is remanded to the trial court for a recalculation of the prejudgment interest. As modified, the judgment affirmed. Farina is awarded her costs on appeal. Irion, J.; We Concur: McDonald, Acting P.J., O'Rourke, J.

D051446 Conservatorship of Janet G.

The judgment is affirmed. Huffman, J.; Benke, Acting P.J., O'Rourke, J.

D051894 In re Andrea U. et al., Juveniles

The orders are affirmed. Haller, J.; We Concur: McConnell, P.J., Benke, J.

D051433 Conservatorship of the Person T.L.

The judgment is affirmed. Huffman, J.; We Concur: Benke, Acting P.J., Aaron, J.

D051611 People v. Carrasco

The judgment is affirmed. Aaron, J.; We Concur: McConnell, P.J., O'Rourke, J.

D051598 People v. Vailuu

The appeal is dismissed. Huffman, J.; We Concur: McConnell, P.J., O'Rourke, J.

D053149 Chaudry v. Superior Court of San Diego County/Allstate Insurance Company

The petition is denied.

D053137 In re Thomas on Habeas Corpus

The petition is denied.

D052014 In re Freeman on Habeas Corpus

The petition is denied.

D053059 In re Brown on Habeas Corpus

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
June 16, 2008 (Continued)

D052750 In re Brown on Habeas Corpus
The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
June 17, 2008

D050660 People v. Loften

The matter is remanded to the trial court for resentencing in accordance with the views expressed in this opinion. O'Rourke, J.; We Concur: Nares, Acting P.J., Irion, J.

D053200 In re Destiny P., a Juvenile

The notice of appeal filed on June 6, 2008 has been considered by Associate Justices McIntyre, Huffman and Irion.

The notice of appeal is untimely. The appeal is accordingly DISMISSED.

D051924 In re Dylan K. et al., Juveniles

The orders are affirmed. Benke, Acting P.J.; We Concur: Haller, J., McIntyre, J.

D052914 Holland et al. v. Wachovia Securities LLC. et al.

Respondent Financial Industry Regulatory Authority, Inc.'s opposed motion to dismiss the appeal and the record filed with the petition for a writ of supersedeas have been read and considered by the Presiding Justice McConnell and Associate Justices Huffman and Irion. The appeal is DISMISSED.

D052791 In re J.F. et al., Juveniles

The appeal is dismissed. O'Rourke, J.; We Concur: Huffman, Acting P.J., McIntyre, J.

D052856 Continental Residential, Inc. v. Superior Court of San Diego County/Uribe

The petition is denied.

D049198 Brack v. Omni Loan Company LTD et al.

Judgment reversed. Plaintiff to recover his costs on appeal. Benke, Acting P.J.; We Concur: Haller, J., Irion, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
June 17, 2008 (Continued)

D053153 In re Soto on Habeas Corpus

The petition for a writ of habeas corpus has been read and considered by Justices Huffman, Haller and Irion. We take judicial notice of the direct appeal D048400.

On September 6, 2005, Gustavo Torres Soto entered a negotiated no contest plea to transporting a controlled substance and admitted he transported more than 20 kilos of methamphetamine. He acknowledged he could be sentenced to up to 19 years in prison. On March 17, 2006, the court sentenced Soto to the middle term of three years for transportation, plus 15 years for the quantity enhancement, for a total prison term of 18 years. We affirmed the judgment on November 8, 2006.

Soto contends trial counsel was ineffective because counsel did not "conduct a thorough investigation of [his] mental and medical background." He claims if trial counsel had presented evidence of Soto's medical problems, including drug addiction, Soto's culpability for the crime would have been reduced and the trial court would have imposed a lower sentence. Soto offers a letter dated January 24, 2008, from Ghassem Bahrambeygui, M.D., stating Soto was seen by Dr. Bahrambeygui on July 10, 2005, for symptoms of "uncontrolled hypertension/tachycardia/acute anxiety disorder/depression and drug abuse." Soto also provides various laboratory and imaging reports from July 2003.

At sentencing the probation officer listed a possible circumstance in mitigation that Soto said he was "strung out on the use of methamphetamine" at the time of the crime. Soto informed the probation officer he had high blood pressure. Defense counsel argued the quantity enhancement should not be imposed because Soto is "a father, who has an uncontrollable drug habit, and without a substantial criminal record." The record shows the court was aware of Soto's claims of high blood pressure and drug addiction and noted "imprisonment is hard on healthy people. It's even harder on people with serious medical conditions." The court imposed the 15-year enhancement based on the fact Soto transported 72 pounds of methamphetamine, nearly twice the amount for imposition of the enhancement. Soto has not shown that had the court been presented with the specifics of Soto's medical problems, the court would have imposed a lesser sentence. Soto received the benefit of his negotiated plea.

The petition is denied.

D052843 Taylor v. Superior Court of San Diego County/KMart Corporation et al.

The petition for writ of mandate, request for stay, response and reply have been read and considered by Presiding Justice McConnell and Associate Justices Huffman and Irion.

The petition is denied. Petitioner has an adequate remedy by way of appeal.

D053151 In re Hammond on Habeas Corpus

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
June 18, 2008

D052614 In re Calalina P et al., Juveniles

The appeal is dismissed. McIntyre, J.; We Concur: Huffman, Acting P.J., Irion, J.

D052313 In re Charity M., a Juvenile

The judgment is affirmed. Huffman, J.; We Concur: Benke, Acting P.J., McIntyre, J.

D051932 In re Kristen B., a Juvenile

The judgment is affirmed. McIntyre, J.; We Concur: McConnell, P.J., Huffman, J.

D052639 GJL Sports Camps, Inc. v. The Regents of the University of California

Upon written request filed by appellant, the appeal is DISMISSED and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.244(c)(2).)

D050473 Ford Motor Credit Company v. Hunsberger et al.

The order is affirmed. Respondent is entitled to its cost on appeal. CERTIFIED FOR PUBLICATION. McIntyre, J.; We Concur: McConnell, P.J., Huffman, J.

D052078 Pennell v. Green

The order granting a harassment injunction against Pennell is reversed. McIntyre, J.; We Concur: Huffman, Acting P.J., Haller, J.

D052070 In re April A., a Juvenile

The judgment is affirmed. Irion, J.; We Concur: Nares, Acting P.J., Haller, J.

D051657 People v. Gomez

The judgment is affirmed. McIntyre, J.; We Concur: Benke, Acting P.J., Haller, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
June 19, 2008

D052968 Communications Supply Corporation v. Jaynes Corporation of California et al.

Pursuant to California Rules of Court, rule 8.140, the appeal filed May 06, 2008, is dismissed for appellant's failure to timely designate the record.

D052034 In re the Marriage of Marquez

Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal Rules of Court, rule 8.244(c)(2).)

D052960 Arthur T. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Arthur T. has notified the court that a petition for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is DISMISSED.

D053009 Marcela N. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Rafael T. has notified the court that a petition for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is DISMISSED.

D052539 In re Russo on Habeas Corpus

The petition is denied.

D053161 American Safety Indemnity Company v. The Superior Court of San Diego County/Admiral Insurance Company

The petition is denied.

D053031 Foothill/Eastern Transportation Corridor Agency et al. v. The Superior Court of San Diego County/Native American Heritage Commission

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
June 19, 2008 (Continued)

D053143 In re Hubbard on Habeas Corpus

The petition for a writ of habeas corpus has been read and considered by Justices Huffman, Haller and Irion.

Daniel Richard Hubbard states he is confined in San Diego County Jail and is being denied due process regarding parole violation charges and extradition to Ohio. He states he was represented by counsel at a hearing on April 8, 2008, and that he has filed a petition in the Superior Court of San Diego County. Hubbard has not provided a case number or documentation with this petition. The record is inadequate for review. (*People v. Duvall* (1995) 9 Cal.4th 464, 474.) The petition is denied without prejudice to refiling after review in the trial court in the first instance. (See *In re Steele* (2004) 32 Cal.4th 682, 692.)

D052731 In re J.P., a Juvenile

The appeal is dismissed. Aaron, J.; We Concur: Benke, Acting P.J., Haller, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
June 20, 2008

D047009 Marcisz et al. v. Movie Theatre Entertainment Group, Inc.
The petition for rehearing is denied.

D053088 Tran v. Superior Court of San Diego County/People
The petition is denied.

D053253 Stacy v. Superior Court of San Diego County/People
The petition for writ of mandate and request for stay have been read and considered by Justices Haller, McIntyre and Irion. The petition is denied.

D052854 In re Brendan D., a Juvenile
Appellant's application for appointment of counsel has been read and considered by the court. Appellant's application for appointment of counsel is DENIED.
Appellant was notified that if appellant's opening brief was not filed within 15 days of June 3, 2008 the appeal would be dismissed. Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rules 8.412(d)(1)(A) and 8.416(g). The appeal is DISMISSED.

D053011 Trisha D. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency
The attorney for petitioner Trisha D. has notified the court that a petition for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. No timely petition for writ relief has been filed for James M. The notice of intent for James M. is deemed to be abandoned. The case is DISMISSED.

D053048 Sandra S. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency
The attorney for petitioner Sandra S. has notified the court that a petition for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is DISMISSED.

D052545 Mason v. J.G. Wentworth S.S.C., LP
Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.244(c)(2).)